IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SEVENTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO: 14913 of 2005

Between:

B.Gopal, S/o.Lingaiah, aged 50 years,

Occ:Welder, E.No.78728, R/o.11-1-809,

Seetharam Bagh 'D' Class Quarters,

Agapura, Hyderabad.

..... PETITIONER

AND

1 The Regional Manager, APSRTC, Nalgonda.

2 The Dy. Chief Mechanical Engineer,

APSRTC, Nalgonda Region, Nalgonda.

3 The Depot Manager, APSRTC, Bus Depot, Narkatpally,

Nalgonda District.

4 The Depot Manager, APSRTC, Bus Depot,

Suryapet, Nalgonda District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate Writ or direction particularly one in the nature of writ of Certiorari, and quash the impugned punishment of deferment of increments for a

period of one year with cumulative effect passed in Proc.No.P1/197(1)/95-NKP dated 23-09-1995 as enhanced by the 2nd respondent to that of deferring increments for a period of (2) years with cumulative effect vide Proc.No.M1/19 (10)/96-MED dated 28-02-1997 without any enquiry as arbitrary, unjust, in violation of Art.14, 16 and 21 of the Constitution of India and also in violatioin of Reg.12 (2) of APSRTC, CC&A Reg.,1967 and consequently direct the respondents to restore the deferred increments along with all consequential benefits in the interest of justice and fair play.

Counsel for the Petitioner: MR.V.NARASIMHA GOUD

Counsel for the Respondents: MR.V.T.M.PRASAD SC FOR APSRTC

The Court at the stage of admission made the following:

ORDER:

This writ petition is filed by the petitioner aggrieved by the order passed by the third respondent imposing the punishment of deferment of annual increment for a period of one year with cumulative effect, which was enhanced by the second respondent to that of deferment of increments for a period of two yeas with cumulative effect, without conducting any enquiry.

2. According to the petitioner, he was appointed as a Cleaner in the respondent-Corporation on 03-11-1978 on regular basis, and later he was promoted as Welder. While he was working as such, he was charge sheeted on 05-08-1995 and the petitioner was asked to submit his explanation with reference to the charges. The petitioner, accordingly, submitted his explanation on 31-08-1995. Thereafter, the third respondent, if not satisfied with the explanation, instead of conducting regular departmental enquiry, imposed a punishment of deferment of annual increment for a period of 12 months which will have the affect on future increments. Aggrieved thereby, the petitioner preferred an appeal before the second respondent. But the second respondent enhanced the punishment to that of deferment of annul increment for a period of two years. Therefore, the petitioner filed a review petition, but no orders have been passed. Hence, the present writ petition.

3. The grievance of the petitioner is that the third and second respondents imposed a major punishment against the petitioner without conducting regular departmental enquiry, which is essential in the light of the judgments of this Court as well as the Apex Court. As no such departmental enquiry was conducted, the imposition of major penalty is illegal and unsustainable.

4. The learned standing counsel appearing for the respondent-Corporation has, however, sought to sustain the impugned order.

5 . Admittedly, the third respondent imposed major punishment without conducting any departmental enquiry. Therefore, the said disciplinary proceedings imposing a major punishment, which was enhanced in appeal, is not sustainable. However, instead of remanding the matter, in view of the long lapse of time from the date of imposition of the punishment, it would be appropriate to modify the punishment.

6. Accordingly, the impugned order is hereby modified into one of withholding of annual increment for a period of 12 months without cumulative effect. It is further made clear that the modified order would come into effect only from the date of the order passed by this Court in the present writ petition and the petitioner would not entitle for any monetary benefits for the period prior to the date of this order.

7. The writ petition is accordingly disposed of. No order as to costs.

S.ANANDA REDDY, J

07th July, 2005

SKM
To

1 The Regional Manager, APSRTC, Nalgonda.

2 The Dy. Chief Mechanical Engineer,

APSRTC, Nalgonda Region, Nalgonda.

3 The Depot Manager, APSRTC, Bus Depot, Narkatpally,

Nalgonda District.

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5 Two CD copies